



# **Xendurance**

## **Company Policies & Procedures**

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## Introduction

Welcome to Xendurance® and Team XND! These policies, referred to as the “**Company Policies**,” together with the **Team Member Agreement**, and **Team XND Compensation Plan**, will give you all the information you need as a new Team Member. Once you have read, accepted, and submitted the Team Member Agreement to the Company online, and upon the Company’s acceptance, these Company Policies, the Team Member Agreement, and the Team XND Compensation Plan will constitute the entire agreement (the “**Contract**”) between Xendurance LLC (the “**Company**” or “**Xendurance**”) and you, as an independent distributor of the Company.

It is your responsibility to fully read and understand these Company Policies and to conduct your Xendurance business in accordance with these Company Policies, and we encourage you to print a full copy for your future reference. ( **Click here** for a printable pdf version of this document.) Failing to comply with these Company Policies may, in the sole discretion of the Company, cause termination of your rights and benefits under the Contract, including termination of your Distributorship, loss of your right to sponsor other Team Members, loss of your right to earn Bonuses, and loss of formal recognition by the Company. Xendurance reserves the right to amend the Contract, including these Company Policies, its discounted or suggested retail prices, product availability and formulations, the Team XND Compensation Plan, and any other published materials and forms as it deems appropriate. The Company may amend these Company Policies in accordance with the procedures set forth below. A current version of the Company Policies will always be available to you on the Company’s website at Xendurance.com.

## The Xendurance Mission

Xendurance is committed to providing efficacious health and performance supplements to consumers for their own use, as well as to individuals who choose to build their own independent business around these products. Xendurance does this by:

- Formulating high-quality nutritional supplements, which are backed by science with proven results.
- Providing a vehicle to allow business building and opportunity for those willing to put in the effort required to succeed.
- Distributing products through Team Members who work independently while sharing, educating others, and selling Xendurance products.
- Being committed to your determination. Everything we do is focused on helping you reach your business and health potential.

## The Xendurance Philosophy

Xendurance’s philosophy is simple—treat others as one would want to be treated. This philosophy includes:

- Putting business integrity and honesty first.
- Building a positive team spirit and never losing sight of the fact that greatness may lie just beyond your comfort zone.
- Being open-minded to scientifically derived data and using it to promote positive change.
- Remaining dedicated to Team Members who will devote their time and hard work to achieve positive results and keeping a strong focus on helping Team Members reach their goals.

## The Xendurance Code of Ethics

Xendurance expects and requires Team Members to conduct themselves in accordance with the highest standards of ethical behavior when introducing people to the Company and representing the Company and its products. Violations of the Code of Ethics may subject a Team Member to disciplinary action depending on the materiality of the violation. Adhering to the Xendurance Code of Ethics will ensure a uniform standard of excellence throughout the Company.

An Xendurance Team Member must:

- Be respectful of every person while conducting Xendurance-related business.
- Conduct all business activities in an ethical, moral, legal, and financially honest manner.

- Refrain from engaging in activities or behavior that would bring disrespect or embarrassment to Xendurance, its corporate officers and employees, or other Team Members.
- Refrain from making negative or disparaging statements about other companies, their employees or products.
- Refrain from making negative or disparaging statements about fellow Xendurance Team Members.
- Be truthful in all representations of Xendurance products.
- Never make diagnostic, therapeutic, medical, or exaggerated claims.
- Never make or circulate unsubstantiated testimonials.
- Give support and encouragement to Customers to ensure that their experience with Xendurance is meaningful and rewarding.
- Provide proper support and training to those they sponsor and other members of their Roster.
- Accurately represent the Team XND Compensation Plan. Be honest in explaining the income one may earn, and never make projections of potential earnings.
- Never use their own or anyone else's income as an indication of another person's potential success, and never use compensation checks as marketing materials.
- Direct persons with questions regarding income or earning opportunities to the **Xendurance Annual Average Earnings Disclosure Report** (when such report has been published by the Company).
- Abide by all of the Company Policies.

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## Definitions

The following definitions apply throughout these Company Policies:

**Active:** Describes the status of a Team Member who has purchased Xendurance products within the past twelve (12) months. When a Team Member signs up and pays the enrollment fee for XND Ship, the Team Member is considered “active” for one (1) year, regardless of whether they make monthly purchases. “**Active**” refers to a Team Member’s eligibility to access Company discounts, NOT the receipt of Commissions. A Team Member is considered to be “**Commission Eligible**” when they personally purchase one hundred (100) PV in a month, unless an RV Substitution has been granted in accordance with Section 3.A. below.

**Bonus:** Extra compensation that may be awarded or earned in addition to Commissions. Bonuses include the Pack Bonus and the Team Bonus and are paid by the Company to a Team Member based on the volume of products sold by a Team Member and/or Team Member’s Roster, as outlined in the Team XND Compensation Plan.

**Business Entity:** A corporation, partnership, limited liability company, or other form of business legally recognized under the laws of the state in which it was organized.

**Commission:** Compensation that reflects a percentage of a Team Member’s Retail Volume and a Roster’s Team Volume (as defined below and more fully set forth in the Team XND Compensation Plan), which is calculated on a monthly basis and paid by the Company to Commission Eligible Team Members.

**Commission Eligible:** Describes the status of a Team Member who has personally purchased one hundred (100) PV during the month.

**Contract:** The agreement between a Team Member and the Company, which consists of these Company Policies, the Team Member Agreement, and the Team XND Compensation Plan, collectively, in their current forms and as they may be amended by the Company from time to time.

**Customer:** The term “Customer” includes Retail Customer, Team Lite Members and Team Members.

**Distributorship:** A Team Member’s Xendurance business, as represented by a Team Member’s contractual relationship with the Company.

**Person:** An individual, corporation, partnership, or other legal entity.

**Provisional:** Describes the status of a Person who has completed the requirements to become a Team Member, but whose enrollment has not yet been accepted or rejected by the Company. The Company reserves the right to restrict product purchases and recruiting rights of Provisional Team Members in its sole and absolute discretion.

**Retail Customer:** A purchaser of Xendurance products at Retail Price.

**Retail Price or Suggested Retail Price:** The price of product set by the Company and depicted on the product packaging or on a price list published by Xendurance. The Retail Price is not discounted. Team Members are prohibited from advertising products at a price less than the Retail Price (as further explained in the Minimum Advertised Price policy herein). To protect the ability of fellow Team Members to make a profit on selling products, Xendurance strongly discourages Team Members from selling the products for less than the Retail Price (in this context, the “**Suggested Retail Price**”).

**Roster** (commonly known as a “downline”): This refers to a group made up of a Team Member, Team XND Lite Member, all Team Members and Team XND Lite Members he or she personally sponsors, and all Team Members and Team XND Lite Members who are sponsored by the Team Member’s downline.

**Sales Aid:** Any material, whether printed or in digital form, used in the offer or sale of Company products, recruitment of prospective Team Members, or training of Team Members, which refers to the Company, the Company’s products, the Team XND Compensation Plan, or Xendurance Intellectual Property.

**Team Leader:** A Team Member who sponsors a new Team Member or Team XND Lite Member. The new Team Members are placed directly under his or her Team Leader in the Team Leader’s Roster.

**Team Member:** An independent contractor authorized by the Company to purchase products from the Company at Team XND Discount pricing, resell Xendurance products to Retail Customers, recruit other Team Members, and earn Bonuses in accordance with the Team XND Compensation Plan. A Team Member’s relationship to the Company is governed by the Contract. When more than one Person owns a Distributorship, “Team Member” refers to all Persons who are part of the Distributorship, collectively, although each Person individually has all the rights and obligations of a Team Member.

**Team XND Lite Member:** An independent contractor authorized by the Company to purchase products from the Company at Team XND Discount pricing, but elects not to participate in business building activities. A Team XND Lite Member's relationship to the Company is governed by the Contract. When more than one Person owns a Distributorship, "Team XND Lite Member" refers to all Persons who are part of the Distributorship, collectively, although each Person individually has all the rights and obligations of a Team XND Lite Member.

**Upline:** The members of a Team Member's Team having a Rank higher than the Team Member.

**Xendurance Intellectual Property:** All intellectual property that Xendurance LLC or an affiliated company owns, claims to own, or has or claims a right to use, including but not limited to rosters, customer lists, downline lists or databases or fields that include the foregoing, product formulations, trade secrets, trademarks, trade names, service marks, design marks, and the content of its publications, whether or not registered with relevant governmental authorities.

**XND Ship:** A program that gives Team Members and Team XND Lite Members free shipping on their personal purchases of Xendurance products shipped within the U.S., provides access to perks and discounts that the Company may offer or arrange from time to time, and lets Team Members select products which are set up to be shipped to them automatically on a monthly basis. The annual fee for XND Ship is currently \$95.00.

## Section 1 Requirements for Becoming a Team Member

Becoming an Xendurance Team Member is a simple process! If you meet the eligibility requirements (individual applicants must be of legal age in their place of residence, be competent to enter into a contract, and must reside in the United States or a U.S. Territory and have a valid Social Security number; Business Entity applicants must be validly formed and in good standing in the U.S. state or territory in which they will do business, and must have a Federal Tax ID number), only two steps are needed before the Company will consider your enrollment application:

**Step 1:** Review and understand the Team Member Agreement, these Company Policies, and the Team XND Compensation Plan, acknowledge your agreement to be bound by them, and confirm your eligibility. You may do this online by submitting all of the information requested in the online enrollment form. The Company reserves the right to require additional information as may be needed to confirm eligibility.

**Step 2:** Pay the XND Ship fee. The current fee for XND Ship is only \$95.00 per year. Residents of New York and North Dakota may opt not to participate in XND Ship.

Together, the completion of steps 1 and 2 above constitute the submission of your "Enrollment Application."

**Consent to Collection and Use of Personal Information.** During the enrollment application process, the Company requires applicants to provide certain personal information which it uses to confirm eligibility, administer the Team XND Compensation Plan, make payments of amounts due Team Members, and for other purposes more fully set forth in Section 16, and as permitted by the Company's **Privacy Policy** posted at [www.Xendurance.com/privacy](http://www.Xendurance.com/privacy). **Before submitting your Enrollment Application, you will be asked to give the Company permission to collect and use your personal information in the manner and for the purposes described above, in Section 16, and as permitted by the Company's Privacy Policy.**

## Section 2 Terms and Conditions Applicable to Team Members

- A. **Binding Effect of Acts of a Member of a Distributorship.** Where one or more Persons are or will be co-owners of a Distributorship, the action, consent, or acceptance of or by a co-owner binds the entire Distributorship.
- B. **Acceptance or Rejection of Enrollment Application by Company.** Xendurance reserves the right, in its sole discretion, to accept or decline any Enrollment Application and/or Contract. Once an Enrollment Application has been submitted, the Company will have ten (10) business days (the "Interim Period") during which to review and either accept or reject it. Acceptance will automatically be deemed to have occurred once ten (10) business days has passed unless the Company has communicated its rejection in writing to the applicant at the email address provided during the online enrollment process. If the Company accepts the Enrollment Application, the effective date of the Contract will be the date the Enrollment Application was submitted to Xendurance (the "Effective Date"). If the Company rejects the Enrollment Application, written notice of rejection will be provided to the applicant on or before the tenth business day following submission of the Enrollment Application along with a full refund of the XND Ship fee. Any products the Provisional Team Member purchased during the Interim Period may be returned to the Company for a full refund following the procedures set forth in Section 10. In the event that any Commissions or Bonuses were earned during the Interim Period, the Company will pay the amounts due

by issuing a check to the applicant and sending the check via U.S. Mail to the mailing address provided on the Enrollment Application.

- C. **XND Ship.** Team Members in all jurisdictions except New York and North Dakota are required to enroll in XND Ship. The terms and conditions applicable to XND Ship may be found in the Team Member Agreement and on the Company's website. Team Members agree to pay the annual XND Ship fee (currently \$95.00) on or before their annual Renewal Date. If a Team Member's XND Ship fee is not paid, the Company may, in its sole discretion, terminate the Team Member's Contract. The Company (i) may terminate XND Ship at any time and for any reason, and (ii) may terminate a Team Member's right to participate in XND Ship in accordance with the terms and conditions of the Team Member Agreement. XND Ship membership will automatically terminate upon a Team Member's cancellation of the Contract.
- D. **Term of Contract and Contract Renewal.** The term of the Contract is one (1) year from the Effective Date. Unless a Team Member notifies the Company of the intent not to renew, or unless the Contract has been terminated by the Company, the Contract will be renewed automatically each year on its anniversary date (the "**Renewal Date**").
- E. **Simultaneous Interests in Distributorships Prohibited.** A Team Member may not have a simultaneous beneficial interest in more than one Distributorship. A beneficial interest includes, but is not limited to, any ownership interest; any rights to present or future benefits, financial or otherwise; or other tangible or intangible benefits associated with a Distributorship. Team Members who are married to each other must be part of the same Distributorship and cannot have more than one Distributorship between them or own a beneficial interest in any other Distributorship. A business owner may not own or have an interest in both a Distributorship in the name of the business and a separate Distributorship in the owner's own name.
- F. **Duty to Maintain Accurate Information.** To ensure that the Company has current information, Team Members must advise the Company of changes to information they provide to the Company.
- G. **Independent Contractor Relationship.** As a Team Member, you are an independent contractor and not an employee, agent, partner, legal representative, or franchisee of Xendurance. You may not incur any debt, expense, or obligation, or open any checking account on behalf of, for, or in the name of the Company. Team Members have no authority to make any representation, agreement, or commitment of any kind for or on behalf of the Company. As a Team Member, you control the manner and means by which you operate your Xendurance Distributorship, subject to compliance with the Contract, and Xendurance does not control the time, location or amount of work that a Team Member performs. You are solely responsible for your own business decisions and for paying all expenses you incur, including but not limited to travel, food, lodging, secretarial, office, long distance telephone, and other expenses. YOU UNDERSTAND THAT YOU WILL NOT BE TREATED AS AN EMPLOYEE OF THE COMPANY FOR FEDERAL TAX PURPOSES OR FOR ANY OTHER REASON. You acknowledge and agree that the Company is not responsible for withholding and shall not withhold or deduct taxes of any kind from Bonuses and Commissions, unless such withholding becomes legally required. You understand that Team Members are bound by all sales tax collection and remittance agreements between the Company and appropriate taxing jurisdictions, and all related rules and procedures.

### Section 3. Product Sales and Purchases

- A. **No Requirement to Purchase Products.** No purchase of Xendurance products is required to become a Team Member or start your business. However, a Team Member who wishes to maintain his or her status as a Team Member is required to personally purchase one hundred (100) PV of Xendurance products within the first month after the Effective Date of their Contract. This minimum PV amount is intended to reflect purchases made for a Team Member's own consumption or to build a reasonable, limited inventory, both which the Company expects would be normal features of operating a business. However, the Company understands that Team Members' needs and business styles will differ. Thus, to accommodate different approaches to starting and maintaining a business, the Company will allow retail sales (RV) to be used as a substitute for PV during any four (4) of the first six (6) months following the Effective Date ("**RV Substitution**"). In an RV Substitution, the portion of RV that substitutes for PV will not be used in the calculation of commissions. To be granted an RV Substitution, the Team Member must make the request via email to [compliance@xendurance.com](mailto:compliance@xendurance.com) by 5:00 p.m. Arizona time on or before the last business day of the month for which the RV Substitution will apply. For clarification, throughout this document it should be understood that maintaining the one hundred (100) PV minimum may be achieved by RV Substitution as set forth in this paragraph.
- B. **Purchasing Products Solely to Qualify for Bonuses is Prohibited.** The Xendurance business opportunity is built on personal use of Xendurance products and retail sales of Xendurance products to consumers. Purchasing products solely for the purpose of collecting Bonuses is prohibited. Team Members are not allowed to purchase inventory in an amount that unreasonably exceeds what can be expected to be resold, used as a sales tool, or consumed within a reasonable period of time. The Company retains the right to limit the amount of purchases a Team Member may make if, in its sole judgment, it believes

those purchases are being made primarily for Bonus or Rank qualification purposes instead of for consumption or resale. In addition, the Company reserves the right to recover Bonuses paid if it discovers that they have been generated on what the Company deems to be purchases made in violation of the Contract.

- C. **Repackaging Prohibited.** Team Members may not print their own product labels or repackage Xendurance products. Products must be sold in their original packaging only.
- D. **Credit Card Use.** The Company strongly discourages Team Members from using their own credit cards to purchase products for another Team Member or a Customer, and Team Members are prohibited from using their own credit cards to purchase products for a Team Member in their Roster or for any Team Member who has been a Team Member for less than thirty (30) days. Team Members may not place a product order using someone else's credit card without the credit card owner's written permission. In those rare circumstances where it is necessary to purchase product(s) for another Team Member or a Retail Customer using the Team Member's own credit card, Team Members must obtain written permission from the person for whom they are ordering. Failure to produce such permission upon request of the Company may result in cancellation of the sale, forfeiture of Commissions resulting from the sale, and other disciplinary action.

#### **Section 4. Xendurance Product Guarantee and Return Policy**

- A. **Product Guarantee; Returns.** Xendurance offers a one hundred percent (100%) 30-day money-back satisfaction guarantee on Xendurance products purchased directly from the Company (less shipping charges). This guarantee does not apply to purchases made through unauthorized websites such as Amazon, eBay or other unverified sources. This guarantee does not apply to Sales Aids or merchandise other than Xendurance products. A full refund will be given upon return of the unused portion of the product within thirty (30) days from the date of receipt, with shipping costs prepaid. Products returned after the 30-day period must be in resalable condition and will be subject to a ten percent (10%) restocking fee.
- B. **Damaged or Incorrectly Sent Products.** Xendurance will provide a full refund or replacement for damaged or incorrectly sent products, if such products are returned to Xendurance within fifteen (15) days of receipt. Shipping costs for damaged or incorrectly shipped products will be paid by Xendurance.
- C. **Excessive Returns.** Returns by a Team Member totaling \$300.00 or more in value in any three (3) month period, and returns made by a Team Member more often than three (3) times within any six (6) month period may be deemed an inventory repurchase, in which case the Company will repurchase the returned products pursuant to the terms of Section 10 and cancel the Team Member's Contract. This limitation does not apply to damaged or incorrectly sent products, which will be replaced, or to products returned pursuant to a Retail Customer's right to cancel orders as explained in Section 5.
- D. **Bonuses and Commissions on Returned Products.** Team Members receive Bonuses based on actual sales of Xendurance products to end consumers. When a product is returned to Xendurance for a refund or is repurchased by the Company, the amount of any Bonus attributable to the returned or repurchased product(s) will be deducted from the Team Member's Bonus in the month in which the refund is given, or withheld from any Bonus or other amount owed to the Team Member by the Company. Such deductions will continue until the amount of the unearned Bonus is recovered from the Team Member who received the Bonus for the sale of the goods that are later returned.

#### **Section 5. Buyers' Right to Cancel Orders**

- A. **The "Cooling-Off Rule."** Federal law (and various state or territorial laws) require that buyers have a right to cancel a sales contract without penalty up to midnight of the third business day (or other applicable period, as set forth in subsection 5.C. below) for sales made at locations other than the place of business of the seller. This is commonly called the "Cooling-Off Rule."
- B. To comply with the Cooling-Off Rule, for in-person sales or in the rare case a Team Member enters an order using a customer's credit card following the procedure set forth in Section 4.D. above, Team Members must do all of the following:
  - a. Furnish the buyer with a fully completed Xendurance Receipt and Notice of Right to Cancel at the time of its execution, in the same language as used in oral sales presentation, showing the date of the transaction, the name and address of the seller, and in immediate proximity to the space for the signature of the buyer or on the front page of the receipt if a contract is not used and in boldface type of a minimum size of 10 points, a statement in substantially the following form:

**"You, the buyer may cancel this transaction at any time prior to midnight of the third business day (fifth business day in Alaska; fifteenth business day for buyers 65 years of age or older in North Dakota) after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."**



1. Give the buyer two (2) copies of the Notice of Right to Cancel at the time the buyer signs the contract or otherwise agrees to buy the goods or services;
  2. Complete both copies of the Notice of Right to Cancel by entering your name, the address of your principal place of business, the date of the transaction, and the date (not earlier than the third business day (or longer if applicable) following the date of the transaction) by which the buyer may give notice of cancellation;
  3. Inform the buyer orally, at the time the buyer signs the contract or purchases the goods or services, of the right to cancel;
  4. If the buyer cancels the sale, notify the buyer, within ten (10) business days of receipt of the buyer's notice of cancellation, whether you intend to repossess or to abandon any shipped or delivered goods.
- A. **Obtaining the Xendurance Receipt and Notice of Right to Cancel Form.** The Company will make a printable version of the Xendurance Receipt and Notice of Right to Cancel form available online in the "Documents and Media" section of the Team Member's back-office.
  - B. **Time for Cancellation.** Alaska and North Dakota. Alaska residents who purchase directly from a Team Member have five (5) business days, and North Dakota residents age 65 or over, when the purchase from a Team Member is more than \$50, have fifteen (15) business days (excluding Sundays and legal holidays), after the sale or execution of the contract to cancel the order and receive a full refund.
  - C. **Honoring a Cancellation.** Buyers who cancel an order must be given a refund of all payments made. Team Members must honor any valid notice of cancellation by a buyer and within ten (10) business days after the receipt of such notice, refund all payments made under the contract or sale and cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale. The Company encourages Team Members to honor all cancellations even if made after the applicable time period, and the Company supports Team Members in doing this by providing a generous Product Guarantee, as set forth in Section 4.
  - D. **Retention of Records.** Team Members should keep copies of all retail sales receipts and notices of the right to cancel on file for six (6) years.

## Section 6. Sponsoring a New Team Member

- A. **Sponsoring; Placement.** A Team Member may refer Persons to the Company as applicants to become new Team Members (this is often called recruiting or sponsoring). Upon submission of an Enrollment Application, a Provisional Team Member will be placed on the Roster of the Team Leader who referred him or her to the Company pending the acceptance of the Provisional Team Member's Enrollment Application. The Company reserves the right to remove the Provisional Team Member from the Roster for any reason, including rejection of the Enrollment Application, in its sole and absolute discretion.
- B. **New Team Member's Acceptance of Contract.** Before a Team Member can add a new Team Member to their Roster, the new Team Member must meet all eligibility requirements and must agree to accept all responsibilities described in the Contract regarding a Team Member.
- C. **Training and Support of Roster.** A Team Leader can enjoy success through his or her own sales of Company products, as well as through the sales of members of his or her Roster. Team Leaders should ensure that those they bring into Team XND are aware of the identity of their Team Leader and what the relationship entails. In order to be a successful leader, a Team Leader should assume training and support obligations for his or her Roster by doing the following:
  - a. Give regular sales and training, guidance, and encouragement.
  - b. Maintain contact with each person on his or her Roster and be available to answer their questions.
  - c. Provide training to ensure that product sales are made in accordance with the Company Policies, the Team XND Compensation Plan and all applicable laws, ordinances, and regulations.
- D. **Additional Duties of Team Leaders.** Team Leaders have a responsibility and special duty to ensure that their actions or omissions do not cause or result in loss, harm or embarrassment to the Company or anyone in their Roster, and must promptly act to take care of any such loss, harm or embarrassment. In addition, the Company expects a Team Leader to:
  - a. Exercise best efforts to ensure that everyone on his or her Roster properly understands and complies with the Company Policies and the Team XND Compensation Plan, as well as all applicable national and local laws, ordinances, and regulations.
  - b. Assist with resolving disputes arising between a Retail Customer and any Team Members on the Team Leader's Roster and attempt to resolve any dispute promptly and amicably.
  - c. Promptly resolve any disputes between the Team Leader and other members of Team XND; and
  - d. Respond to communications from the Roster or the Company within a reasonable time.
- E. **Realignment of All or Part of a Roster.** The Company reserves the right to move or realign a Roster, or parts thereof, from Team Leaders who violate the Company Policies, commit or are involved in the conduct of moral turpitude, as

determined by the Company in its sole discretion, or file a petition in bankruptcy or a petition to take advantage of any insolvency act. Examples of conduct of moral turpitude may include: making unwelcome sexual advances or communications, failing to repay debts, causing physical harm to others, engaging in criminal mischief or abuse, theft, and interfering with family relationships. The Company will give ten (10) days' advance notice to any Team Leader whose Roster is to be moved or realigned.

## Section 7. Change of Team Leader

To safeguard the hard work of Team Leaders, the Company strongly discourages changes in the composition of a Roster. Maintaining the integrity of sponsorship is critical for the success of Team XND. Accordingly, the transfer of a Team Member from one Team Leader to another is rarely permitted. Requests for changes to a Roster must be submitted in writing to the Company and must include a detailed reason for the request. Transfers will only be considered in the following circumstances.

- A. **Placement Made in Error:** When a new Team Member is placed in the Roster of someone other than the individual who recruited or sponsored the new Team Member, the new Team Member can request that they be transferred. Requests for this type of transfer must be in writing and must be delivered to the Company by mail or by email to [compliance@xendurance.com](mailto:compliance@xendurance.com) by 5:00 p.m. Arizona time on or before the thirtieth (30) business day following the date of enrollment. Such requests will be evaluated on a case-by-case basis, with approval being in the Company's sole discretion.
- B. **Cancellation and Re-Application:** A Team Member may legitimately change Rosters by voluntarily cancelling their Contract and remaining inactive (i.e. no purchases of Xendurance products for resale, no sales of Xendurance products, no sponsoring, no attendance at any Xendurance functions, no participation in any other form of Xendurance activity) for six (6) calendar months. Following the six (6) -month period of inactivity, the former Team Member may reapply under a new Team Leader; however, the Team Member's former Roster will not follow or be realigned with him or her, but will remain in its original line of sponsorship.
- C. Team Members seeking to change or transfer from their enroller or first level Team Leader must receive the written approval of five (5) upline Team Members.  
Ex; Level 6 Team Member wants to move from under level 5 Team Member. Level 6 will need written approval from levels 5, 4, 3, 2 and 1.  
Ex; Level 20 Team Member wants to move from under level 19 Team Member. Level 20 will need written approval from levels 19, 18, 17, 16 and 15.  
Ex; If a Level 4 Team Member does not have an upline of 5 Team Members and has only 3 levels of upline, Level 4 will only need 3 levels of upline written approval for movement.  
The written request must contain specific reasoning for the movement, it must include signed and approved statements from each upline Team Member and it is at the sole discretion of the Company to grant the request.
- D. **Waiver of Claims for Unauthorized Roster Changes:** The Company reserves the sole and exclusive right to determine the final disposition of a Roster. Resolving conflicts over the proper placement of a Roster can be extremely difficult. Therefore, TEAM MEMBERS WAIVE ANY AND ALL CLAIMS AGAINST THE COMPANY, ITS OFFICERS, DIRECTORS, OWNERS, AGENTS AND EMPLOYEES THAT RELATE TO OR ARISE FROM THE COMPANY'S DECISION REGARDING DISPOSITION OF ANY ROSTER THAT DEVELOPS UNDER A TEAM MEMBER THAT THE COMPANY DETERMINES HAS IMPROPERLY CHANGED LINES OF SPONSORSHIP.

## Section 8. Prohibited Recruiting Practices

- A. "**Cross-Company Recruiting**" is the actual or attempted solicitation, enrollment, encouragement, or effort to influence a Team Member or Customer to enroll or participate in another network marketing opportunity. This conduct constitutes Cross-Company Recruiting even if the actions of the Team Member are in response to an inquiry made by another Team Member or Customer. Team Members agree that appearing in or allowing their name or likeness to be featured or referenced in any promotional, recruiting or solicitation materials for another direct selling company during a period of one (1) year after termination of their Contract constitutes Cross-Company Recruiting.
- B. "**Cross-Line Moving**" is the actual or attempted solicitation, enrollment, encouragement, or effort to influence the enrollment of a Person that already has a current Xendurance Distributorship within a different line of sponsorship. Cross-Line Moving also applies to the enrollment of any Person that has had a Xendurance Distributorship within the past six (6) months.
- C. **Prohibition.** Team Members are prohibited from engaging in Cross-Company Recruiting or Cross-Line Moving. The use of a spouse or relative's name, trade names, DBAs, assumed names, corporations, partnerships, trusts, federal ID numbers, or fictitious ID numbers to circumvent this policy is unethical and is prohibited.

- D. **D. Non-Competition and Non-Solicitation:** Every Team Member agrees not to own, manage, operate, consult for, serve in a KEY position or participate as an independent distributor in any other direct sales program using a multi-level, network marketing or direct sales structure with competing products. Competing products are defined as supplements, proteins, ingestible nutrition, nutritional drinks, probiotics, or any programs similar to those offered by the Company. The Company has the sole right to determine if such products/programs are competing.
- E. **Injunctive Relief Available to the Company.** Team Members agree that Cross-Company Recruiting and Cross-Line Moving constitute unreasonable and unwarranted interference with the contractual relationship between the Company and its Team Members, conversion of the Company's property and misappropriation of the Company's trade secrets. Team Members agree that violation of this policy will inflict immediate and irreparable harm to the Company, that the harm to the Company exceeds any benefit that the Team Member may derive, and that the Company shall be entitled, in addition to any other remedies that may be available, to immediate, temporary, preliminary and permanent injunctive relief without bond, and that such injunctive relief may extend the post-termination period of this restriction for up to one (1) year from the date of the last violation of this provision. The provisions of this Section shall survive the termination of the Contract. Nothing herein waives any other rights and remedies the Company may have in relation to the use of its Confidential Information or any other violations of the Contract.

## Section 9. The Team XND Compensation Plan

Please refer to the **Team XND Compensation Plan** document for full details and illustrations of the information in this Section.

### Definitions Applicable to this Section 9:

**Commissionable Order:** An order that is assigned Retail Volume points, and is timely ordered and paid for by a Retail Customer.

**Compression:** Team Member who has an active XND Ship but fails to make one hundred (100) PV of purchases in the current month does not receive commissions. A Team Member who has no business building activity and has not placed any (100) PV orders for 3 consecutive months will have their member type changed to a Team XND Lite Member. A Team Member who has no business building activity and has not placed any orders for 3 consecutive months will have their entire downline roll up to their active, upline Team Member. The Team Lite Member will continue to receive Team XND discount pricing, free shipping and partner perks until their XND Ship is up for the annual renewal. If the annual XND Ship fee is not paid, their status will be set to a Customer and their Team Member/Team Lite Member contract terminated. Business building activities include any action that generates commissionable income.

**Pack:** A bundle of products that may be offered for sale at a discounted price by the Company. The composition of the Pack, its pricing, and availability may change without notice at the discretion of the Company. Pack purchases may be limited by the Company.

**Personal Volume (PV):** The sales volume, measured in points, of products purchased by a Team Member in one (1) calendar month, primarily for resale to Customers or for personal consumption. Not all sales of products qualify for PV value. The PV that the sale of a product generates is clearly delineated on the product pricing.

**Rank:** A designation (level) that may be earned by a Team Member under the Team XND Compensation Plan. Ranks are earned and determined each month and include: Starter, Pro, Captain, All-Star, Coach, Manager, General Manager, Team Owner, and Commissioner.

**Retail Volume (RV):** The volume of Xendurance product sales made by Team Members to Retail Customers, on which Commissions may be earned, except in the case of an RV Substitution.

**Team:** The group comprised of the Team Member, Team Member's Roster, and Team Member's Upline.

**Team Level:** One of 6 layers of Commissions that can be earned in the Team XND Compensation Plan.

**Team Requirement:** Designated team positions that must be filled in a Roster, as illustrated in the Team XND Compensation Plan, in order for the Team to qualify for various levels of compensation.

**Team Volume (TV):** The combined PV and RV of the members of a Team.

- A. **Compensation.** There are three (3) ways in which a Team Member can earn money.

- a. **Mark-Up on Products for Retail Sale.** Team Members buy Xendurance products from the Company at Team XND Discount pricing for resale to Customers, for use as samples or sales aids, or for personal consumption. Team Members can earn money by reselling the products to their Customers at Retail Price.
- b. **Monthly Commissions.** All Team Members can earn Commissions based on the sale of Xendurance products to Retail Customers. The percentage Commission Team Members earn on their own sales to Retail Customers is five percent (5%). Team Members with a Rank of Starter and above can also earn Commissions on sales of Xendurance products to Retail Customers by their Roster. The details are more fully described in the Team XND Compensation Plan. In order to receive a monthly commission, a Team Member must have purchased one hundred (100) PV (or have been granted an RV Substitution) during the commissionable month (e.g., to be eligible for June 2020 Commissions, Personal Volume must be a minimum of one hundred (100) in June 2020). No Commission is paid on PV.

**Please Note:**

- A. A Team Member who fails to maintain one hundred (100) PV in a month is not eligible to receive Commissions.
- B. A Team Member who fails to maintain one hundred (100) PV for three (3) consecutive months is not eligible to receive Commissions and will have their member type changed in the Roster to a Team Lite Member.
- C. A Team Member who has no business building activity and has not placed any orders for 3 consecutive months will have their **entire downline** roll up to their active, upline Team Member. The Team Lite Member will continue to receive Team XND discount pricing, free shipping and partner perks as long as their yearly XND Ship is active.
- D. A Team Lite Member or Team Member who has not paid the annual XND Ship fee will have their status set to a Customer and their Team Member/Team Lite Member contract terminated.
  - a. Prior to terminating the Contract of a Team Member who has maintained one hundred (100) PV each month but has failed to pay the annual XND Ship fee when due, the Company will notify the Team Member by email prior to compression to make the required payment, and will pay the Team Member Commissions earned for any period up until the XND Ship is not active. Team Member Commissions will not be paid for any period whereby the XND Ship enrollment is not active.
- E. Team XND 2 & Team XND Sponsored Athletes may be repositioned at the discretion of the Company at any time.
- F. Business building activities include any action that generates commissionable income.
- G. **Bonuses.** Bonuses are geared toward rewarding the efforts of everyone from the beginning Team Member to the long-time, experienced Team Member, and include the Pack Bonus and the Team Bonus.
  - a. **Pack Bonus.** All Team XND positions are eligible to receive increased commissions (up to twenty percent (20%) on Team Level 1 and ten percent (10%) on Team Level 2) on all first time "Pack" orders placed. Pack Bonus commissions are paid on one (1) Pack per Retail Customer or Team Member. Team Members must maintain one hundred (100) PV monthly to unlock the Pack Bonus. Pack Bonuses are paid in addition to Team Level Commissions.
  - b. **Team Bonus.** Initially, a monthly Bonus will be paid to General Managers, Team Owners, and Commissioners, which will be calculated on a per-share basis, at a rate of three percent (3%) of total Commissions generated from all Team Members. Total share count is comprised of the current number of Team Members holding the ranks of General Manager, Team Owner, and Commissioner. Example A: If there are three General Managers, there would be three shares outstanding. Example B: If there is one General Manager, one Team Owner, and one Commissioner, then there would be six shares outstanding. This Team Bonus has been designed to increase profits, but should not in any respect be deemed to create an ongoing obligation for the Company or establish a class of preferred shares or an equity interest of any kind. The Company will revisit this Team Bonus policy periodically and may discontinue it without notice except as may be required by law.
- H. **Phone Stipend.** Team Members with the Rank of Pro (or above) receive a monthly stipend (currently \$75) for one year to help cover a portion of their cell phone expenses. Team Members must achieve and maintain the PV and TV associated with their Rank each month in order to qualify for the Phone Stipend.
- I. **Payment of Bonuses and Commissions.** Commissions and Bonuses are paid in arrears and payments are deposited by ACH transfer on or about the 7th day of the month following the month in which those Commissions or Bonuses were earned. If the 7<sup>th</sup> day of the month falls on a Saturday, Sunday or a legal holiday in Arizona, Commissions and Bonuses may be paid the first business day immediately following the 7th day of the month.
- J. **Ranks.**

- a. *Achieving Ranks.* All Ranks have a minimum monthly requirement of one hundred (100) PV as well as minimum Monthly TV requirements which vary by Rank. For instance, the Pro Rank requires one hundred (100) PV and 2000 TV. No Commission is paid on PV. Please refer to the Team XND Compensation plan for a full listing of TV requirements.
  - b. *Ranks and Levels.* Team Members holding a Rank of Starter or above can earn Commissions on the sales of Xendurance products made by the positions in their Roster. For example, the Rank of Captain receives compensation from three (3) levels (Starter, Pro, and Captain). Generally, as a Team Member advances in Rank, the Team Member is paid from additional levels in the Team Member's Roster.
  - c. *Compression.* The Team XND Compensation Plan maximizes payment to Team Members through Compression.
- K. General and Miscellaneous Compensation Provisions.**
- a. *Company Recognition.* The Company may choose to recognize Team Members at various events, in print and digital publications, and through social media. Recognition will be based upon criteria and standards adopted and announced by the Company, which may change from time to time.
  - b. *Inclusion in a Period's Bonus.* A Person must become an approved Team Member by the last day of the Bonus period in order to be included in that period's Bonus and qualification computations. Product sales must have been completed and payment received by the Company by the last day of the Bonus period in order to be paid or qualify for a Rank for that period.
  - c. *Preconditions to Commission and Bonus Payments.* Team Members can earn Commissions and Bonuses only if they fulfill all requirements of the Team XND Compensation Plan and are not in default of any material obligations under the Contract.
  - d. *Payment of Commissions and Bonuses.* Commissions and Bonuses earned by Distributorships which are owned by more than one (1) Team Member are paid to the Team Member under whose Social Security number or EIN the Distributorship operates.
  - e. *Duty to Retain Documentation of Retail Sales.* Each Team Member receiving a Commission agrees to retain documentation, for at least six (6) years, which evidences the retail sales of products in the month for which the Commission was paid. Team Members agree to make this documentation available to the Company at the Company's request. Failure to do so constitutes a breach of the Contract and entitles the Company to recoup any Commissions or Bonuses paid for orders in any month for which retail sales documentation is not maintained.
  - f. *Recoupment of Commissions & Bonuses.* In addition to any recoupment rights otherwise set forth herein, the Company reserves the right to recoup any Commissions and Bonuses paid to Team Members on products:
    - i. returned under the Company's return policy or repurchase policy;
    - ii. returned to the Company under any applicable law;
    - iii. returned in relation to any incident of the Team Member's misconduct, including but not limited to, making unauthorized or misleading representations regarding an offer or sale of any product, or regarding the Team XND Compensation Plan; or
    - iv. purchased in an amount which unreasonably exceeds that which can be expected to be resold and/or consumed within a reasonable period of time.
  - g. *Payment of Recouped Commissions & Bonuses.* In recouping Commission and Bonus payments as provided in this section, the Company, in its sole discretion, may require direct payment from an affected Team Member or offset the amount of the recoupment against any present or future Commissions and/or Bonuses.
  - h. *No Compensation Solely for Adding Team Members.* Team Members receive no compensation solely for enrolling other Team Members. Commissions and Bonuses are based on product sales only.
  - i. *No Guaranteed Compensation.* As with any other sales opportunity, the compensation earned by Team Members varies significantly. The cost to become a Team Member is very low. People become Team Members for various reasons. Many wish to simply enjoy the Company's products at Team XND Discount pricing. Some join Team XND to improve their skills or to experience the management of their own business. Others may become Team Members, but for various reasons never purchase products from the Company. Consequently, many Team Members never qualify to receive Bonuses. Team Members are neither guaranteed a specific income nor assured any level of profit or success. Payment of XND Ship Fee and/or the achievement of the monthly PV requirement does not guarantee any level of income or earnings. Neither the XND Ship Fee nor any purchases made for personal consumption, product samples, or inventory are commissionable; they are sold to the Team Member at wholesale pricing. Earnings can come only through the sale of products by the Team Member and those within the Team Member's Roster. A Team Member's success is always based primarily on the efforts of the Team Member, and generating

meaningful compensation as a Team Member requires considerable time, effort, and commitment. Xendurance and the Team XND Compensation Plan are not get-rich-quick programs.

## **Section 10. Cancellation and Repurchase Rights of Team Members**

- A. A Team Member has the right to cancel at any time, regardless of reason. Cancellation must be submitted in writing to the Company at its principal business address at 8465 N 90<sup>th</sup> Street, Suite 6-7, Scottsdale, Arizona 85258.
- B. Upon cancellation of a Team Member's Contract, the Team Member may return any products and Sales Aids purchased directly from Xendurance within twelve (12) months prior to the date of cancellation, which are in resalable condition, as described below.
- C. Upon receipt of resalable products and Sales Aids, the Company will reimburse the Team Member ninety percent (90%) of the Team Member's cost, less any Commissions, Bonuses, rebates or other incentives received by the Team Member for the products returned, and less shipping charges. If the purchases were made through a credit card, the refund will be credited back to the same account.
- D. **"Resalable."** Products and Sales Aids are in "resalable" condition if: 1) they are unused; 2) packaging and labeling have not been altered or damaged; 3) the product and packaging are in a condition such that it is a commercially reasonable practice within the trade to sell the merchandise at full price; 4) the product expiration date has not elapsed; and 5) the product contains current Xendurance labeling and information.
- E. Products that are no longer marketed by the Company shall not be considered resalable if the Company clearly disclosed prior to purchase that the products are seasonal, discontinued, limited time offers, or special promotion products and are not eligible for repurchase.
- F. Residents of Georgia, Oklahoma, Louisiana, Maryland, Massachusetts, Texas, Montana and Puerto Rico may have additional rights, as set forth below in Subsection 10.F, which additional rights shall supersede and override any provisions in the Contract which are in conflict with such additional rights, except that any cancellation or buy-back provision in the Contract which is more favorable to the Team Member than those in the applicable additional rights shall remain in full force and effect.
- G. **Return Procedure.** To obtain a refund for returned products or Sales Aids, a Team Member must comply with these procedures:
  - a. Approval for the return must be received prior to returning products to the Company. A return authorization number must be obtained, either by telephone or in writing, and the return shipment must be accompanied by the return authorization number.
  - b. The Company will provide the Team Member with instructions for returning the products and/or Sales Aids. All return shipping costs must be paid by the Team Member. Xendurance will not accept shipping-collect packages.
  - c. Proper shipping carton(s) and packing materials are to be used in packaging the product(s) being returned, and the best, most economical means of shipping is suggested. The risk of loss in shipping returned products belongs to the Team Member, and in the case of non-delivery, it is the responsibility of the Team Member to track the shipment.
  - d. Products or Sales Aids returned to the Company without a return authorization number will not qualify for repurchase and will be returned to the Team Member at the Team Member's expense.
  - e. This return/refund procedure may vary in jurisdictions where different repurchase requirements are imposed by law. Applicable laws will dictate the terms of the repurchase policy for Team Members in those jurisdictions.
- H. **Refund Policy XNDship.**
  - a. Team Members can receive a FULL refund of XND Ship within the annual renewable time period if no eligible purchases or Member benefits have been used prior to refund request. Ex; no product orders have been placed under the Team Member's account during the 12 months of XND Ship purchase.
  - b. Team Members have 30 days from the time of XND Ship purchase to cancel XND Ship. Xendurance will deduct the cost of any Member benefits the Team Member utilized within those 30 days. Ex; If an order received a 25% discount, that 25% discount will be deducted from the refund cost of XND Ship.
  - c. To cancel XND Ship, please email [info@xendurance.com](mailto:info@xendurance.com).
- I. **Duty to Retain Sales Order Number.** In order for the Company to correctly recoup the Commissions and/or Bonuses paid on returned products, the original sales order number from the invoice must be provided to the Company at the time the request for a refund is made.

- J. **Return of Personalized Sales Aids.** Personalized Sales Aids are not returnable or refundable, except for personalized Sales Aids with printing errors. Such Sales Aids must be returned within thirty (30) days and in conformance with the requirements in Section 4.
- K. **Credit Card Chargebacks.** Team Members are required to return products under the Company's product exchange and return policies rather than pursuing any refunds directly from credit card companies.
- L. **Additional Repurchase Rights for Residents of Certain Jurisdictions.** Team Members who reside in jurisdictions whose laws provide for rights which vary from those set forth above may have additional rights, which are set forth in detail in the Team Member Agreement.

## Section 11. Product Claims

- A. **Food and Drug Administration Standards.** Many Xendurance products fall under nutritional and cosmetic classifications established by the U.S. Food and Drug Administration (FDA). The FDA regulates and oversees the production and sale of nutritional and cosmetic products to assure their safety and proper representation to the public. The FDA also imposes labeling and packaging standards with which the Company must comply.
- B. **Federal Trade Commission Standards.** Advertising is regulated by the Federal Trade Commission (FTC). Laws enforced by the FTC require that representations made by the Company, or Team Members, about the health benefits, performance, efficacy, safety or ingredients of Xendurance products are based upon competent and reliable scientific evidence that substantiates the representation being made. "Competent and reliable scientific evidence" means tests, analyses, research and/or studies using procedures generally accepted by experts in the relevant scientific field that yield accurate and reliable results and that have been conducted and evaluated in an objective manner by persons qualified to do so.
- C. **Permissible Claims.** A Team Member may represent only that Xendurance products are safe to use and are specifically formulated to support overall wellness.
- D. **FDA Disclaimer.** When discussing the benefits of Xendurance products, a Team Member should refer to the FDA statement on Xendurance product labels: "These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent disease."
- E. **No Curative or Drug Claims.** A Team Member may not make any medical claim for any Xendurance product nor specifically prescribe any given Xendurance product as suitable for any specific ailment, as that type of representation implies the products are drugs rather than nutritional supplements or other health products. Under no circumstance should Xendurance products be likened to drug products prescribed for the treatment of specific ailments. While the Company makes every effort to achieve full compliance with complicated and periodically amended FDA regulations, no Team Member should state or infer that any Xendurance product is approved by the FDA. The FDA does not require or grant specific approval for individual nutritional or health products.
- F. **Mandatory Disclosure.** When promoting Xendurance or Xendurance products, a Team Member must disclose the fact that the Team Member is a Xendurance Team Member who receives or may receive Bonuses and Commissions from the Company.

## Section 12. Advertising and Use of the Company's Intellectual Property

### Definitions Applicable to this Section 12:

**Allowed Content:** Any text, graphics, logos, audio clips, video, photographs, software, or Xendurance Intellectual Property in Company Approved Sales Aid(s) or which is otherwise made available to Team Members by the Company.

**Company Approved Sales Aids:** Marketing materials created and distributed by the Company or approved by the Company in writing.

**Digital, Print and Electronic Media:** The use or display of any Allowed Content by e-mail, websites, and/or Social Media; and any electronic-based display, including by television, radio, film and other audio or video recordings.

**Media Guidelines:** Xendurance's **Media Guidelines**, which are incorporated herein by this reference, and which set usage standards of Allowed Content for particular formats.

**Merchandise:** All goods sold by Xendurance LLC.

**Sales Aid:** Any material, whether physically printed or in digital form, used in the offer or sale of Xendurance products, recruitment of prospective Team Members, or training of Team Members, which refers to the Company, the Company's products, the Team XND Compensation Plan, or Xendurance Intellectual Property.

**Social Media:** The use of web-based and mobile technologies to turn communication into an interactive dialogue.

- A. **Xendurance Intellectual Property.** Xendurance Intellectual Property, including its trademarks, service marks, trade names, trade dress, the content of its publications, and the intellectual property it has licensed from its affiliates or third parties are valuable assets. By using Xendurance Intellectual Property, Team Members agree and acknowledge that there exists great value and good will associated with Xendurance Intellectual Property, and acknowledge that the Company has all rights to the property and that the good will pertaining thereto belongs exclusively to the Company. Team Members also acknowledge that the intellectual property has a secondary meaning in the mind of the public. Xendurance Intellectual Property is protected by federal, state and international copyright and trademark laws and other proprietary rights. These rights are protected in all forms, including media and technologies existing now or to be developed. The content in Company Approved Sales Aids and on its official website, including the text, graphics, logos, audio clips, music, lyrics, video, photographs, software, and other information is the property of Xendurance and/or its affiliates or partners, or is licensed to Xendurance from third parties. Because Xendurance does not own all of the content, Xendurance cannot give a license to Team Members for certain content. Accordingly, when using Xendurance Intellectual Property, Team Members agree to use Allowed Content only as expressly defined and granted herein.
- B. **Allowed Uses.** Subject to the Conditions of Use, Team Members are permitted to use Allowed Content for the following purposes:
  - a. The creation and use of Sales Aids.
  - b. The creation and use of Digital, Print and Electronic Media to be used for marketing Xendurance products.
  - c. With written approval from the Company, on apparel, buildings and signs, and on Merchandise, and in paid online advertising.
- C. **Conditions of Use.** The use of Allowed Content is conditioned on the following (“**Conditions of Use**”):
  - a. *Media Guidelines.* Allowed Content may only be used in strict accordance with the **Media Guidelines**.
  - b. *Context and True Statements.* Team Members may not use Allowed Content in violation of the Contract, including the Media Guidelines, or out of context, or infer meaning other than the express meaning of the Allowed Content, by the use of modifiers, additional text, or other content. All content must be true and accurate.
  - c. *Claims and Representations Concerning Xendurance Products.* Team Members may not use, and Xendurance does not support the use of, any content that violates federal, state, or local laws, including those laws promulgated by the FDA and FTC and other regulatory bodies.
  - d. *Variations, Takeoffs or Abbreviations.* Team Members may not use a variation of the Allowed Content for any purpose, including phonetic equivalents, foreign language equivalents, takeoffs, or abbreviations. The following examples are unacceptable variations: “XNDURANCE” or “EENDURANCE” or “XTREME ENDURANCE”.
  - e. *Slogans and Taglines.* Team Members may not add to, subtract from, or modify in any way Company slogans or taglines.
  - f. *Disparaging or Offensive Use.* Team Members may not use Allowed Content in a disparaging, offensive, or injurious manner.
  - g. *Best Light.* All Allowed Content must be shown only in the best light, in a manner or context that reflects favorably on the Company and its products.
  - h. *Endorsement or Sponsorship of a Third Party.* Team Members may not use Allowed Content in a manner that would imply the Company’s affiliation with or endorsement, sponsorship, or support of any third-party product or service, or any political cause or issue.
  - i. *Use in Digital or Telephone-Based Media.* The following apply to digital and telephone-based media.
  - j. *Social Media Handles.* Except for in a Xendurance Replicated Website, the name “Xendurance” may not be used in any social media handle. The term XND may be used in your social media handles with exception of using XND in conjunction with a location. For example but not limited to “newyorkXND”, “newyork\_teamxnd”, “USA\_XND”. The term “Xendurance” may be used in biographical information on social media channels as long as it is not used to refer to any ownership of the Company.
  - k. *Websites.* Xendurance Team Members wishing to have a static online Xendurance presence may only use Xendurance Replicated Websites which display Xendurance Suggested Retail Prices. To apply for and set up your own Xendurance Replicated Website, go to xendurance.com and click on “Join Team XND,” then follow the instructions to access your website (referred to as marketsite) and customize your site. Team Members may not establish or operate any other website using or showing Xendurance Intellectual Property, or through which Xendurance products are sold.
  - l. *Social Media.* Team Members with a Social Media presence, either personal or business, should review the static content regularly and scrub it to delete any claims in the comment or third-party sections that are not legal.



Xendurance branded social media channels, including but not limited Facebook pages, Messenger Apps, Snapchat, Instagram pages, LinkedIn listings, Pinterest pins, blogs, podcasts or YouTube or Vimeo channels are expressly reserved for the Company and may not be established or operated by Team Members.

- m. *Disclaimer.* Except for Xendurance Replicated Websites, each digital, or telephone based Media, including Member owned and operated websites, shall clearly indicate that it is not authored by Xendurance, or any of its affiliated companies, and that the owner of the site or Media bears all responsibility for the content.
  - n. *Domain Names.* Team Members may not use Xendurance Intellectual Property in a domain name without express written approval from the Company, which consent shall be within the sole discretion of the Company. Such use must also be through a written use agreement signed with the Company. Examples of use that are not acceptable: "Xendurance.com," "Xendurancecompany.com," "Xendurancecorporate.com," etc. Team Members should consult the Media Specific Guidelines.
  - o. *Spam Prohibition.* Team Members may not engage in "spamming." Spamming includes, but is not necessarily limited to: (1) sending unsolicited email, social, text messages and phone calls that contain any email or web addresses from a Team Member's account to online users; (2) posting message that contain the Team Member's email address in online and offline groups that are unrelated to the Team Member's products; (3) creating false "from sources" in an email, social, text message, or newsgroup posting with the Team Member's email address, thereby giving the impression that the message originated from the Company or its network of Team Members; and (4) sending unsolicited emails, text messages or social media messages to lists of people that are not within the Team Member's Roster or with whom the Team Member has not had a prior business or personal relationship. Company related email, social, and text broadcasts must only be sent to Team Members in the Team Member's Roster. Emails must not contain any false representations, income claims or projections, or testimonials. Email and text message recipients must be given the opportunity to unsubscribe from receiving future email correspondence.
  - p. *Hotlinks Guidelines.* When directing readers to your replicated Member website, it must be evident from a combination of the link and the surrounding context that the link will be directed to the site of a Team Member. Attempts to mislead web traffic into thinking they are going to the Xendurance corporate website will not be allowed. Determination as to what is misleading will be the sole responsibility and determination of Xendurance.
- D. **Proper Use of Allowed Content.** Team Members must use the appropriate trademark or copyright symbol (TM, SM, ®, ©) the first time Xendurance Intellectual Property appears. Team Members must refer to and use the correct spelling of the trademark or copyright, and generic term to use with the trademark. Generally, the symbol appears at the right shoulder of the trademark, but exceptions may exist. Team Members must include an attribution of Xendurance's ownership of its Allowed Content within the credit notice section of a Team Member's Sales Aid. The following are the correct U.S. formats for trademarks:
- a. Xendurance®
  - b. Extreme Endurance®
  - c. Fuel-5®
  - d. XND®
  - e. TeamXND®
  - f. CBDeep Sleep®
  - g. Hydro Stix®
  - h. Fuel What Matters®
- E. **Acknowledgement and Protection of Rights**
- a. *Acknowledgment of Rights.* Team Members agree that all Allowed Content is owned exclusively by Xendurance LLC, or is licensed to Xendurance LLC. Except for the limited rights granted by the Contract for the term of the Contract, Team Members acknowledge that the Company hereby retains all legal title to and beneficial ownership of and all rights to Xendurance Intellectual Property and all intellectual property rights related thereto for all purposes.
  - b. *Agreement to Protect.* Team Members agree to assist the Company to the extent necessary in the procurement of any protection or to protect any of the Company's rights to the Allowed Content.
- F. **Assignments.** Team Members agree that nothing contained in the Contract shall be construed as an assignment or grant to the Team Member of any right, title or interest in or to the Allowed Content, it being understood that all rights relating thereto are reserved by the Company, except for the right to use the Allowed Content as expressly provided in the Contract. Team Members agree that at the termination or expiration of the Contract, Team Members will be deemed to have assigned, transferred and conveyed to the Company any trade rights, equities, good will, titles or other rights in and to Xendurance Intellectual Property which may have been obtained by Team Members or which may have vested in Team Members in pursuance of any endeavors covered hereby, and that Team Members will execute any instruments requested by the Company

to accomplish or confirm the foregoing. Any such assignment, transfer or conveyance shall be without other consideration other than the mutual covenants and considerations of the Contract.

- G. **Termination of Right to Use Allowed Content.**
- a. A Team Member's rights granted in this Section 12 may be terminated immediately by the Company upon notice without the opportunity to cure should the Team Member do any of the following:
  - b. Commit any act of dishonesty;
  - c. Fail or refuse to perform any other obligation created by this Contract or any other agreement between the Team Member and the Company; or
  - d. Make any misrepresentation relating to the rights granted herein, or engage in conduct which reflects unfavorably on the Company or upon the operation and reputation of the Company's business.
  - e. In the event of termination of the Contract for any reason, Team Members shall immediately cease all use of the Allowed Content and shall not thereafter use any Xendurance Intellectual Property.
- H. **Rights are Personal.** The rights and duties under this section are personal to the Team Member and the Team Member shall not, without the written consent of the Company, which consent shall be granted or denied in the sole and absolute discretion of the Company, assign, mortgage, license, sublicense, or otherwise encumber any right or duty associated with the Allowed Content.
- I. **Remedies.** Each Team Member acknowledges and agrees that compliance with the terms of this Section 12 is necessary to protect the goodwill and other proprietary interests of the Company. Team Members stipulate and agree that any violation of this Section 12 will inflict immediate and irreparable harm on the Company, that the harm to the Company exceeds any benefit that the Team Member may derive, and that the Company shall be entitled to immediate, temporary, preliminary and permanent injunctive relief without bond, in addition to specific performance and any other remedies that may be available, and that such injunctive relief may extend the post-termination period of this restriction for up to one (1) year from the date of the last violation of this provision. Team Members agree to not oppose the imposition of injunctive relief or specific performance on the grounds that there is an adequate remedy at law. The provisions of this Section 12 survive the termination of the Contract. Nothing herein waives any other rights and remedies the Company may have in relation to the use of its Confidential Information or any other violations of the Contract.
- J. **Sponsored Links, Social Media Ads & Pay-Per-Click (PPC) Ads**  
Sponsored links, social media ads or pay-per-click ads (PPC) are not an acceptable form of marketing. These include but are not limited to paid advertising on Facebook, Instagram, Snapchat, Pinterest, TikTok, Google, Youtube, Vimeo, and any other social or web browser paid platform. Any URL that could lead the user to believe they are being directed to an Xendurance Corporate site, or be inappropriate or misleading in any way, will be given 3 days advance notice to cease sponsored links and/or ads.
- K. **Minimum Advertised Price Policy.** Team Members may sell Xendurance products at whatever price they and their Customers agree; however, a Team Member is prohibited from advertising any price below the Xendurance Suggested Retail Price. This includes advertising offers for "free" products, blanket discounts (e.g., 5% off everything) or any other special pricing that would cause the actual price to fall below the Suggested Retail Price.
- a. Team Members may not use Xendurance Intellectual Property on their own printed coupons or sales aids as this is likely to cause confusion with other sellers of Xendurance products.
  - b. Team Members may not answer the phone as "Xendurance" or imply they represent the Company or are more than a Team Member.
  - c. No advertising may imply that a job or position is available at Xendurance.
  - d. The achievement of, or the potential to achieve specific income levels, may not be represented or implied in any way, and the income of any Team Member may not be disclosed.
  - e. All media inquiries must be immediately referred to the Director of Marketing Communications for the Company.
  - f. Upon request, copies of any Sales Aid or other medium which the Team Member prepared, caused to be prepared, or distributed, which contains any Xendurance Intellectual Property or Allowed Content, must be immediately provided to the Company. Team Members must retain a copy of all Sales Aids, or other advertising material which they distributed, for seven (7) years from the last date of distribution.
  - g. Team Members agree to release and discharge the Company, and its successors, assigns, employees, and agents from any and all liability, monetary compensation, claim and/or demand arising out of or in connection with the creation and the use of any intellectual property of another, or of the Company, including any claims for defamation or false representations.
- L. **Use of Team Member's Name, Likeness and Image.** Each Team Members consents to the Company's use of his, her or its name, in printed, electronic or recorded form, and image or likeness (in any form or media) in connection with the advertisement and promotion of Xendurance, its products, and its business opportunity, and at Company sponsored events. If

Team Member offers or provides to the Company testimonial or other statements relating to experiences as a Xendurance Team Member, Team Member shall consent to the use of such testimonial or other statement by the Company in its advertising and promotional activities.

### **Section 13. Retail Store, Service Establishment Sales and Trade Show Policy**

- A. **Retail Store Policy.** A Team Member may sell Xendurance products and/or promote the Xendurance business opportunity through retail stores such as CrossFit boxes, gyms, health and fitness stores, and other such establishments where appointments are necessary for service, except in such stores or establishments that, in the Company's sole discretion, are large enough to be considered state, regional or national chains.
- B. **Sales in Service Establishments.** Team Members may sell Xendurance products through service establishments only if such establishments provide services related to the products. For example, Xendurance products may be sold through the offices of doctors and other healthcare professionals, health clubs, spas, and gyms.
- C. **Suitability.** The Company reserves the right, in its sole discretion, to make a final determination as to whether an establishment is a suitable place for the sale of Xendurance products. The Company's granting of permission in a particular case does not waive its right to enforce this policy in any and all other cases.
- D. **Online Sales.** Team Members may not sell Xendurance products through online auctions or mall sites, including but not limited to Walmart.com, Taobao.com, Alibaba, Tmall.com, Tencent platforms, Yahoo!, eBay or Amazon. Team Members may not attempt to sell in any buy/sell groups or classified list, such as Craigslist, Facebook Buy/Sell Groups, or OfferUp. Team Members may only sell Xendurance products online through Xendurance Replicated Websites.
- E. **Minimum Advertised Price Policy.** Team Members acknowledge that the Company has implemented a minimum advertised price (MAP) policy and Company will monitor MAP compliance. The MAP Policy prohibits Team Members from advertising prices lower than the Xendurance Suggested Retail Prices or making special offers or offering other terms to the public which result in Xendurance products being offered for less than the full Suggested Retail Price.
- F. **Trade Show Policy.** Team Members wishing to display, promote and sell Xendurance products and promote the Xendurance opportunity in connection with a trade show or public event may rent a booth or set up an exhibit at a trade show, public event or convention ("**Convention**"), subject to the Company's written approval of the Convention and the Team Member's compliance with the following requirements:
  - a. Complete and submit an Event Submission Form to the Company at least four (4) weeks prior to the Convention or event. This form should be emailed to [compliance@xendurance.com](mailto:compliance@xendurance.com).
  - b. The Company reserves the right to decline a request or to limit the number of booths representing the Company and Xendurance products per Convention or event. Exclusive rights may be granted in the sole discretion of the Company.
  - c. Team Members may not use the Convention or booth to promote any product, service, or business opportunity other than Xendurance products and the Xendurance business opportunity.
  - d. Team Members may distribute and display Xendurance produced or approved marketing materials. However, Team Members may not reference Xendurance in any form of advertisement or promotional material that implies that the Company is participating in the Convention. Instead, any advertisement or promotional material, and any maps or listings prepared by the promoter of the Convention, must make specific reference to the Team Member as an independent distributor of Xendurance products.
  - e. While a Team Member may explain the basics of the Team XND Compensation Plan to interested parties, a Team Member may not make any income projections, give hypothetical examples of earnings, or make any earnings representations, lifestyle claims, or any other type of income claim regarding the amount of money they or anyone else may expect to earn as a Xendurance Team member.
  - f. A Team Member introducing the Xendurance opportunity should be honest in explaining that success as a Team Member depends on many factors, including the time and effort one is willing to expend.
  - g. During the Convention, the Team Member must personally comply with all Company Policies and is responsible for (i) the actions of every person who works in the Team Member's booth at the Convention, (ii) all material distributed from the Team Member's booth at the Convention, and (iii) all other aspects of participation in the Convention.
  - h. In addition to the other remedies provided herein, the Company reserves the right to deny future Convention participation for any policy violation at a Convention.

## Section 14. Payment of Taxes

- A. **Income Tax.** Team Members accept sole responsibility for all self-employment and income taxes due to income earned as Xendurance Team Members. At the end of each calendar year, Xendurance will provide a statement of earnings (Form 1099) for tax purposes to each Team Member with an annual income at or over the minimum amount required to be reported to the U.S. Internal Revenue Service. Any contest, incentive or prize items may be included in the 1099 form. To the extent required by law, the Company will send notification of the Team Member's product purchases and Bonus payments to relevant tax authorities.
- B. **Sales Tax.** Team Members authorize the Company, on Team Members' behalf, to collect and remit to the applicable governmental agencies all sales and use taxes assessed on Team Members' purchases and resales of Xendurance products. Xendurance collects state sales tax on the sale of products at the time of purchase and remits it to the appropriate state taxing authority. The amount of sales tax is based upon the Suggested Retail Price of a product, calculated at the tax rates applicable in the jurisdiction to which products are shipped by Xendurance, unless the Team Member has submitted a Sales Tax Exemption certificate and a Resale Tax Number. Note: Team Members are not exempt from sales taxes when products are sold to tax-exempt customers.

## Section 15. Product Liability Claims

- A. **Company Defense of Claims.** Subject to the limitations set forth in this provision, Xendurance shall defend Team Members from claims made by third-party claimants alleging injury from use of a product, or injury due to a defective product. Team Members must promptly notify the Company in writing of any such claim, no later than ten (10) days from the date of the third-party claimant's letter alleging injury. Failure to so notify the Company shall alleviate any obligation of the Company respecting such claim. As conditions to the Company's obligation to defend Team Members, Team Members must: allow the Company to assume the defense of the claim; allow the Company sole and absolute discretion respecting the defense of the claim; and allow Company to use its choice of counsel.
- B. **Exceptions to Indemnification of Team Member.** The Company shall have no obligation to indemnify a Team Member if:
  - a. The Team Member has not complied with the Contract respecting obligations and limitations applicable to the distribution and/or sale of Xendurance products;
  - b. The Team Member has repackaged, altered or misused any Xendurance product, or made claims or given instructions or recommendations respecting the use, safety, efficacy, benefits or results of using an Xendurance product, which do not comply with the approved literature of the Company; or;
  - c. The Team Member settles or attempts to settle a claim without the Company's written approval.

## Section 16. Collection and Use of Personal Information

- A. **Use of Personal Information by Team Members.** All Team Members must keep personal information of others secure, and may not disclose or share such information without express permission from the individual to whom it belongs.
- B. **Collection and Use of Personal Information by Company.** The Company collects personal information of Customers in order to fill orders, handle customer service and warranty related issues, where required for administration and record keeping, and for such other reasons as may be required by applicable law and regulation. The Company collects personal information of Team Members in order to fill orders, for administrative and record keeping purposes, to fulfill the terms of the Contract, provide support, make special offers and promotions available to Team Members, and to send Team Members information about products, services and business opportunities of Xendurance and other companies. The Company shares Team Members' personal information with other Team Members in the Team Members' Rosters to facilitate communications within Rosters. The Company may share Team Members' personal information with others in the Company and with other Team Members for purposes of recognizing performance or success.
  - a. **Use of Information for Other Purposes.** The Company may share limited personal information of Team Members (name and contact information) with other companies for the purpose of facilitating special offers, which have been pre-approved by the Company, made by other companies to Team Members. Before submitting my Enrollment Application, I will be asked to give my consent to the Company's sharing of my personal information (name and contact information) with companies who wish to extend special offers to Team Members.
  - b. **Managing Your Personal Information.** Team Members may update their personal information, or change or delete any personal information, through their personal back office, which may be accessed through the Company website at [www.xendurance.com](http://www.xendurance.com).

- c. **Opting Out of Marketing Communications.** Team Members and Customers may opt out of receiving marketing communications from the Company by clicking on the “Unsubscribe” link provided in all marketing email communications from the Company.
  - d. **Company Privacy and Data Protection Practices.** For more information on the Company’s privacy and data protection practices, refer to the **Privacy and Data Protection Policy** posted at [www.Xendurance.com/privacy](http://www.Xendurance.com/privacy).
- C. **Team Member Lists.** The Company derives, compiles, configures, and maintains lists of Team Members and contacts generated therefrom (“**Team Member Lists**”) through the expenditure of considerable time, effort, and monetary resources. The Team Member Lists, in their present and future forms, constitute commercially advantageous assets and trade secrets of the Company. The right to disclose Team Member Lists and other Team Member information maintained by the Company is expressly reserved by the Company and may be denied at the Company’s discretion.
- a. **Confidentiality of Team Member Lists.** Vendors, suppliers, or other persons obtaining access to Team Member Lists must contractually agree to the confidential and proprietary nature of such materials and that any use of the Team Member Lists or contacts generated therefrom, except for the sole purpose of furthering the Company’s business or as otherwise agreed with the Company, is expressly forbidden. They must also agree that the information is the property of the Company and that any materials offered to Team Members which make any reference to the Company or its programs may be offered only with the prior written consent of the Company for each separate offer.
  - b. **Specific Lists.** The Company may provide a uniquely tailored portion of the Team Member Lists to Team Members (hereinafter in the context of Team Member Lists, the “**Recipient**”). Each portion of the provided Team Member List will contain only information specific to the Recipient’s level and his or her own Roster.
  - c. **Limitations on Use of Team Member Lists.** Team Member Lists are provided for the exclusive and limited use of the Recipient to facilitate the training, support, and servicing of the Recipient’s Roster for furtherance of Company-related business only. Each Recipient agrees that each use, within its intended scope, constitutes a separate exclusive license agreement between the Recipient and the Company.
  - d. **Lists Belong to Company.** All Team Member Lists remain, at all times, the exclusive property of the Company, and the Company may, at any time and in its sole discretion, reclaim and take possession of any Team Member Lists.
  - e. **Team Member’s Use of Lists.** If the Company, in its sole discretion, reveals all or part of a Team Member List or Lists to a Team Member, Recipient agrees to limit use of the Team Member Lists to their intended scope of furthering the Team Member’s Xendurance-related business. Team Member Lists may not be used to identify and solicit Xendurance Team Members for other commercial opportunities and activities.
  - f. **Team Member’s Duties as Recipient.** Recipient agrees to hold confidential and not disclose any Team Member Lists or any portion thereof to any third party, including, but not limited to, other Team Members, competitors, and the general public, and agrees that any use or disclosure of the Team Member Lists outside of the purposes authorized herein, or for the benefit of any third party, constitutes misuse, misappropriation, and a violation of the Recipient’s license, which causes irreparable harm to the Company. Recipient further agrees and stipulates to injunctive relief as an appropriate remedy enjoining any violation under this section or applicable national or local laws, and will, upon the Company’s request, immediately retrieve and return to the Company all Team Member Lists previously provided to the Recipient. Recipient agrees that the obligations under this section will survive the termination of the Recipient’s Contract.
  - g. **Company’s Remedies for Violation.** The Company reserves the right to pursue all appropriate remedies under applicable national or local laws to protect the personal information of its Team Members and Customers and its rights to the above-stated proprietary and trade secret information covered by the Team Member Lists. Any failure by the Company to pursue any applicable remedies will not constitute a waiver of those rights.

## Section 17. Limitation of Liability

- A. Except as provided herein, Xendurance makes no express or implied representations or warranties with respect to the Xendurance products to be provided hereunder or their condition, merchantability, fitness for any particular purpose or use. The Company shall not be liable for any:
  - Special, indirect, incidental, punitive, or consequential damages, including loss of profits, arising from or related to the operation or use of the products including, without limitation, damages arising from loss of revenue or profits, failure to realize savings or other benefits, damage to equipment, and claims against a Team Member by any third person, even if the Company has been advised of the possibility of such damages;
  - Damages (regardless of their nature) for any delay or failure by the Company to perform its obligations under the Contract due to any cause beyond its reasonable control; or

- Claims made a subject of legal proceeding against the Company more than one (1) year after the alleged violation. Notwithstanding any other provision of the Contract, the Company's total liabilities hereunder shall not be greater than the amounts actually received by the Company pursuant to the terms of the Contract.

## Section 18. Disciplinary Actions

- A. **Rights Conditioned Upon Performance.** A Team Member's rights under the Contract are conditioned upon and subject to the Team Member's continued performance in accordance with the terms of the Contract. Failure by a Team Member to perform his or her obligations as set forth in the Contract may result in the termination of Team Member's rights hereunder. The Company may excuse a Team Member's non-performance in whole or in part without waiving its rights and remedies under the Contract.
- B. **Grounds for Termination of a Team Member's Contract.** The Company shall have the right to terminate the contract of a Team Member who (i) files a petition in bankruptcy or a petition to take advantage of any insolvency act; or (ii) is convicted of a felony or any other criminal misconduct which is relevant to the Contract.
- C. **Possible Disciplinary Actions.** If a Team Member violates any of the terms and conditions of the Contract or engages in any illegal, fraudulent, deceptive, improper or unethical business conduct, Xendurance may, in its sole discretion and to the extent permitted by applicable law, invoke any disciplinary action that it deems appropriate. Potential disciplinary actions include:
- Issuing an oral and/or written warning or admonition to the Team Member;
  - Closely monitoring the conduct of the Team Member over a specified period of time to ensure performance of the contractual duties;
  - Requiring the Team Member to provide the Company with additional assurances that the Team Member's performance will follow the Contract. Further assurances may include requiring the Team Member to take certain actions in an effort to mitigate or correct non-performance;
  - Denying or suspending privileges that are awarded from time to time by the Company or cease performing the Company's obligations under the Contract, including but not limited to, awards, recognition at corporate events or in corporate literature, participation in Company-sponsored events, placement of product orders, promotion within the Team XND Compensation Plan, access to Company information and Team Member Lists, or the Team Member's participation in other Company programs or opportunities;
  - Discontinuing or limiting the ability of the Team Member to earn further Commissions and Bonuses from all or any part of the sales of the Team Member or the Team Member's Roster;
  - Imposing a fine, which may be imposed immediately or withheld from future Commissions or Bonus checks;
  - Reassigning all or part of the Team Member's Roster;
  - Adjusting the Team Member's status;
  - Suspending the Team Member, which may result in termination or reinstatement with conditions or restrictions;
  - Terminating the Distributorship of the Team Member;
  - Seeking injunctive relief and/or other remedies available by law;
  - Instituting legal proceedings for monetary and/or equitable relief; or
  - Any combination of the above.
- D. **Investigation.** The following procedure applies when Xendurance investigates an alleged violation of the Contract:
- The Company will either provide the Team Member with a verbal notice and/or send a written notice of the alleged breach of the Contract.
  - In a case when written notice is sent, the Company will give the Team Member ten (10) business days from the date of delivery of a notification letter during which the Team Member may present all information relating to the incident for review by the Company. The Company reserves the right to prohibit activity (e.g. placing orders, sponsoring, modifying Team Member information, receiving Bonuses, etc.) by the Distributorship in question from the time notice is sent until a final decision is rendered.
  - On the basis of any information obtained from collateral sources and from the Company's investigation of the statements and facts taken together with information submitted to the Company during the response period, the Company will make a final decision regarding the appropriate remedy, which may include any of the possible Disciplinary Actions listed in Section 18.C. The Company will promptly notify the Team Member of its decision. Any remedies will be effective as of the date on which notice of the Company's decision is delivered.
- E. **Termination.** A Person whose Distributorship is terminated by the Company may not sign up again as a Team Member for twelve (12) months from the date of termination. The Company reserves the right to decline to accept any Person as a Team

Member. All obligations regarding confidentiality of information and the Team Member network survive termination of the Contract.

- a. When a Distributorship is voluntarily terminated, the account is placed in a suspended status for a period of six (6) months from the date of last activity, after which period the account is actually terminated and removed from the genealogy tree. In other words, a suspended account stays in the genealogy tree until it is actually terminated by the Company; there is no “roll-up” of a Roster during the suspension period. Due to the Team XND Compensation Plan’s compression, however, volume will roll-up past the suspended Team Member, allowing for maximum payout to Active Team Members.
- b. **Inactivity.** A Distributorship may be terminated by the Company if the Distributorship is not Active or if the XND Ship fee has not been paid.
- c. **Co-applicant Binds Distributorship.** The act of any participant or co-owner in a Distributorship is attributable to the Distributorship and any remedies, including termination of the Contract, necessitated by that act may be applied to the Distributorship generally.
- d. **Reporting Violations.** Team Members may report violations of the Contract, the Company Policies, or the Code of Ethics. All reports of violations must be in writing and must identify the Persons involved, the date and other particulars of the violation, and must be sent to the attention of Xendurance’s legal department. The Company may refuse to review any violation not brought to the Company’s attention within two (2) years of the initiation of the alleged violation.
- e. **Action Against a Team Member.** The Company may take action against a Team Member as outlined in this Section 18 and elsewhere in the Company Policies if the Company determines, in its sole discretion, that the Team Member’s conduct or the conduct of any participant in the Distributorship is detrimental, disruptive, or damaging to the well-being or reputation of a Distributorship or the Company.
- f. **Enforcement of Policies.** The Company shall not forfeit its right to require compliance with the terms of the Contract, including all policies set forth herein, or with applicable laws and regulations governing the conduct of business. The Company reserves the right to waive wholly or partially, or to pardon wholly or partially any breach of any of the policies contained herein. No failure by the Company to exercise its rights or to insist upon strict compliance by a Team Member with any provision of the Contract shall operate as a waiver of the Company’s right to demand compliance. The existence of a claim or cause of action of a Team Member against the Company shall not constitute a defense to the Company’s enforcement of any term or provision of the Contract.

## Section 19. Contract Changes

- A. **Amendments on Thirty (30) Days’ Notice.** Xendurance expressly reserves the right to make any amendments or modifications to the Contract, including the Team XND Compensation Plan and the Company Policies, upon thirty (30) days’ prior written notice in a Company publication, by separate mailing, emailing, or through online publication on the Company website(s). Team Members agree that thirty (30) days after publication of that notice, any amendment or modification becomes effective and is automatically incorporated into the Contract and/or Team XND Compensation Plan, between the Company and its Team Members, as an effective and binding provision. By continuing to act as a Team Member, or engaging in any Distributorship activity, including purchasing products, recruiting other Team Members, or earning Commissions, after the amendments or modifications have become effective, a Team Member acknowledges acceptance of the new terms and agrees to be bound by them.

## Section 20. Successors and Claims

- A. **Binding Effects and Continuing Benefits.** The Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
- B. **Transfer of a Distributorship Position.** Except as otherwise noted in this Handbook, a Team Member may dispose of, sell, transfer, or otherwise assign his or her Distributorship assets in any manner allowed by the Contract and applicable law (including sale, gift, or bequest) with the prior written consent of the Company. Any assets that take the form of claims to compensation or satisfaction of contractual obligations, from or by the Company, will not be recognized as assets of the transferee on the records of the Company until the Company has received written notification of the transfer and has given its formal written approval. The Distributorship transferred is subject to all remedial measures under the Contract that may have arisen prior to the transfer.

- a. Team Members who gift, sell, convey or otherwise transfer their Distributorship will be treated as if the Distributorship has been voluntarily terminated. A Team Member whose Distributorship has been terminated must wait six (6) months from the official termination date to sign up again.
  - b. Upon the performance of the requirements to sign up following the six (6) -month waiting period referred to above, a new Distributorship will be created which will take the place of the former Distributorship Roster. Unless expressly agreed to in writing by the Company, the Accounts Receivable balance, PV, TV and enrollment date of the original Distributorship will be retained by the original Distributorship.
  - c. A Team Member may not sell, convey, assign, or otherwise transfer any right conveyed by the Contract to any Person or entity without the express, prior written consent of the Company. A Team Member may delegate his or her responsibilities but is ultimately responsible for ensuring compliance with the Contract and applicable laws. Any Person working with or for the Team Member as part of his or her Distributorship will do so only under the Team Member's direct supervision.
- C. **Distributorship Succession.** In the event that a Team Member dies or becomes incapacitated, that Team Member's Roster will pass to the Team Member's legal successors under the appropriate laws. Successors should promptly notify the Company in writing of such an event and provide the proper documentation.
- D. **Operation of the Distributorship During Succession.** During the pendency of a divorce or entity dissolution, the parties must adopt one of the following methods of operation:
- a. One of the parties may, with consent of the other(s), operate the Distributorship pursuant to an assignment in writing whereby the relinquishing spouse, shareholders, partners or trustees authorize the Company to deal directly and solely with the other spouse or non-relinquishing shareholder, partner or trustee; or
  - b. The parties may continue to operate the Distributorship jointly on a "business-as-usual" basis, whereupon all compensation paid by the Company will be paid in the joint names of the Team Members or in the name of the entity, to be divided as the parties may independently agree between themselves.
- E. **Distributorships are Indivisible.** Under no circumstances will the Roster of divorcing spouses or a dissolving Business Entity be divided. Similarly, under no circumstances will the Company split Commission and/or Bonus checks between divorcing spouses or Team Members of dissolving entities. The Company will recognize only one (1) Roster and will issue only one (1) Commission and/or Bonus check per Distributorship per commission/bonus cycle. Checks shall always be issued to the same individual or entity. In the event that parties to a divorce or dissolution proceeding are unable to resolve a dispute over the disposition of Commissions and/or Bonuses and the ownership of the business, the Distributorship may be involuntarily canceled.
- F. **Court Proceedings.** Team Members involved in court proceedings over the ownership or the management of a Distributorship are under obligation to inform the Court that the Distributorship is indivisible, and that the Company will not divide a Roster or Commission/Bonus checks. The final order must expressly assign ownership of the Distributorship.
- G. **Waiting Period to Sign Up Again.** If a former spouse or a former entity Team Member has completely relinquished all rights in their original Distributorship, they are thereafter free to enroll under any sponsor of their choosing, so long as they meet the waiting period requirements set forth in Section 7, in such case, however, the former spouse or partner shall have no rights to any Team Members in their former Roster or to any former Customers. They must develop the new business in the same manner as would any other new Team Member.

## Section 21. Miscellaneous

- A. **Waiver.** Any waiver by Xendurance of any Team Member's breach of any provision of the Contract shall not be construed as a waiver of any subsequent or additional breach. The failure by the Company to exercise any right or prerogative under the Contract will not operate as a waiver of that right or prerogative.
- B. **Contractual Relationship.** Each Team Member agrees that the relationship between a Team Member and the Company is entirely contractual. Accordingly, the Company will neither honor nor respect any claim by a Team Member that the relationship is or has been quasi-contractual, has arisen by implication from any continuing practice or course of action, has been verbally authorized by an employee of the Company in contradiction of the terms of the Contract, or is otherwise implied in fact.
- C. **Dispute Resolution, Mandatory Arbitration and Waiver of Class Action .** In the event of any dispute, claim, question, or disagreement arising from or relating to the Contract or the breach thereof, or relating to the Company or the relationship between the Company and a Team Member, the parties shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, and attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach such solution within a period of sixty (60) days, then, upon notice by either party to the other, all disputes, claims, questions, or differences



shall be finally settled by arbitration administered in Scottsdale, AZ, by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules. Disputes may only be brought in an individual capacity and not as a class member, the arbitrator cannot combine cases or consolidate claims of more than one person, and there shall be no right or authority for any dispute, claim, question or disagreement to be arbitrated on a class action basis. Each party to the arbitration shall be responsible for its own costs and expenses of arbitration, including legal and filing fees. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. This agreement to arbitrate shall survive any termination or expiration of the Contract.

Notwithstanding this dispute resolution provision, nothing herein shall prevent Xendurance from applying to and obtaining from any court having jurisdiction a writ of attachment, a temporary restraining order, preliminary injunction, permanent injunction, or other relief available to safeguard and protect Xendurance's interest prior to, during, or following any mediation or other proceeding.

.Notwithstanding the foregoing, a Team Member who resides in Louisiana shall be entitled to file an adjudicatory claim or lawsuit in the jurisdiction of Louisiana and the governing law shall be Louisiana law.

**Before submitting the Enrollment Application, you will be required to signal your agreement with the Mandatory Arbitration and Waiver of Class Action provision in the foregoing subsection 21.D.**

- D. **Litigation and Claims.** In order to protect Xendurance, its assets, and its reputation from claims or disputes created by outside (non-Team Member) third parties, the Company requires that if any Team Member is charged with any infringement of any proprietary right of any outside third party (who is not a Team Member) arising from any of the Company's proprietary assets, or if the Team Member becomes the subject of any claim or suit related to that Team Member's business-related conduct or any other action that directly or indirectly negatively affects or puts the Company, its reputation, or any of its tangible or intangible assets at risk, the affected Team Member shall immediately notify the Company. The Company may, at its own expense and upon reasonable notice, take whatever action it deems necessary (including, but not limited to, controlling any litigation or settlement discussion related thereto) to protect itself, its reputation, and its tangible and intangible property. The Team Member shall take no action related to that claim and suit, unless the Company consents, which consent shall not unreasonably be withheld.
- E. **Time for Claim or Action.** Team Members agree that, notwithstanding any statute of limitation to the contrary, any claim or action a Team Member may wish to bring against Xendurance for any act or omission relating to the Contract must be brought within one (1) year from the date of the alleged act or omission giving rise to the claim or cause of action. Failure to bring such action within the permitted time shall act as a bar against all claims against Xendurance for such act or omission. The Team Member waives any and all claims or rights to have any other statute of limitation apply.
- F. **Force Majeure.** The parties to the Contract shall not be responsible for any failure or delay in the performance of any obligations hereunder, other than the obligation to pay money, caused by acts of God, flood, fire, war or public enemy.